

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1011

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO TAXATION; AMENDING THE INVESTMENT CREDIT ACT TO  
PROVIDE FOR A TAX CREDIT FOR EQUIPMENT USED IN THE FARMING OR  
PROCESSING OF CHILE; EXCLUDING CHILE MANUFACTURING OPERATIONS  
FROM A CERTAIN EMPLOYMENT REQUIREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9A-3 NMSA 1978 (being Laws 1979,  
Chapter 347, Section 3, as amended) is amended to read:

"7-9A-3. DEFINITIONS. --As used in the Investment Credit  
Act:

A. "department" means the taxation and revenue  
department, the secretary of taxation and revenue or any  
employee of the department exercising authority lawfully  
delegated to that employee by the secretary;

B. "equipment" means an essential machine,

1 mechanism or tool, or a component or fitting thereof, used  
2 directly and exclusively in a manufacturing operation and  
3 subject to depreciation for purposes of the Internal Revenue  
4 Code by the taxpayer carrying on the manufacturing operation.  
5 "Equipment" does not include any vehicle that leaves the site  
6 of the manufacturing operation for purposes of transporting  
7 persons or property or any property for which the taxpayer  
8 claims the credit pursuant to Section 7-9-79 NMSA 1978;

9 C. "manufacturing" means combining or processing  
10 components or materials, including recyclable materials, to  
11 increase their value for sale in the ordinary course of  
12 business, including genetic testing and production and chile  
13 farming, but not including:

14 (1) construction;  
15 (2) farming, other than chile farming;  
16 (3) power generation, except for electricity  
17 generation at a facility other than one for which both  
18 location approval and a certificate of convenience and  
19 necessity are required prior to commencing construction or  
20 operation of the facility, pursuant to the Public Utility Act  
21 [~~and the Electric Utility Industry Restructuring Act of 1999~~];  
22 or

23 (4) processing natural resources, including  
24 hydrocarbons;

25 D. "manufacturing operation" means a plant,

1 including a genetic testing and production facility, employing  
2 personnel to perform production tasks, in conjunction with  
3 equipment not previously existing at the site, to produce  
4 goods;

5 E. "recyclable materials" means materials that  
6 would otherwise become solid waste if not recycled and that  
7 can be collected, separated or processed and placed in use in  
8 the form of raw materials or products; and

9 F. "taxpayer" means a person liable for payment of  
10 any tax, a person responsible for withholding and payment over  
11 or for collection and payment over of any tax or a person to  
12 whom an assessment has been made, if the assessment  
13 remains unabated or the amount thereof has not been paid."

14 Section 2. Section 7-9A-7.1 NMSA 1978 (being Laws  
15 1983, Chapter 206, Section 6, as amended) is amended to  
16 read:

17 "7-9A-7.1. EMPLOYMENT REQUIREMENTS. --

18 A. Except as provided in Subsection B of this  
19 section, prior to July 1, 2011, to be eligible to claim a  
20 credit pursuant to the Investment Credit Act, the taxpayer  
21 shall employ the equivalent of one full-time employee who  
22 has not been counted to meet this employment requirement for  
23 any prior claim in addition to the number of full-time  
24 employees employed on the day one year prior to the day on  
25 which the taxpayer applies for the credit for every:

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1 (1) five hundred thousand dollars  
2 (\$500,000), or portion of that amount, in value of qualified  
3 equipment claimed by the taxpayer in a taxable year in the  
4 same claim, up to a value of thirty million dollars  
5 (\$30,000,000); and

6 (2) one million dollars (\$1,000,000), or  
7 portion of that amount, in value of qualified equipment over  
8 thirty million dollars (\$30,000,000) claimed by the taxpayer  
9 in a taxable year in the same claim.

10 B. The employment requirements of Subsection A  
11 of this section do not apply to manufacturing operations  
12 that produce or provide initial roasting, drying, freezing,  
13 canning, cooking, brining, color extracting or similar  
14 processing of raw chile.

15 ~~[B-]~~ C. After June 30, 2011, for every one  
16 hundred thousand dollars (\$100,000) in value of qualified  
17 equipment claimed by a taxpayer in a taxable year, the  
18 taxpayer shall employ the equivalent of one full-time  
19 employee in addition to the number of full-time employees  
20 employed on the day one year prior to the day on which the  
21 taxpayer applies for credit.

22 ~~[C-]~~ D. The department may require evidence  
23 showing compliance with this section. The department may  
24 find that an additional employee meets the requirements of  
25 this section, although employed earlier than one year prior

1 to the day on which the taxpayer applies for the credit, if  
2 [he] the employee was only being trained prior to that date  
3 or [~~his~~] the employee's employment [~~is~~] was necessitated by  
4 the use of the qualified equipment. "

5 Section 3. TEMPORARY PROVISION--APPLICABILITY. --The  
6 provisions of this act apply to qualified equipment  
7 purchased or introduced into New Mexico on or after January  
8 1, 2007.

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